

**Iowa Department of Natural Resources
Environmental Protection Commission**

ITEM

7

DECISION

TOPIC

**Notice of Intended Action: Chapters 22, 23, 25, 31, and 33 –
Rescission Rulemaking**

The Department is requesting permission from the Commission to proceed with the rulemaking process and publish a Notice of Intended Action to amend Chapter 22 "Controlling Pollution," Chapter 23 "Emission Standards for Contaminants," Chapter 25, "Measurement of Emissions," Chapter 31, "Nonattainment Areas," and Chapter 33, "Special Regulations and Construction Permit Requirements for Major Stationary Sources—Prevention of Significant Deterioration (PSD) of Air Quality."

Reason for Rulemaking

The purpose of the proposed air quality rulemaking is to rescind unnecessary rules and to update other rules to reduce regulatory requirements. The proposed rules rescinding the Voluntary Operating Permit Program fulfill the recommendations of an Executive Order 80 workgroup. The proposed rules rescinding conditional permits implements the requirements of Senate File 2197 (85th General Assembly, signed by Governor Branstad on March 14, 2014). The proposed rules will also implement a portion of the Department's 5-year rules review plan.

The Department proposes to **rescind** the following air quality rules:

- 1) Voluntary Operating Permit (VOP) program;
- 2) Conditional permits;
- 3) Adoption by reference of several federal air toxic and new source performance standards that do not apply to any Iowa sources; and
- 4) References to air quality forms that no longer exist or are explained elsewhere in rule.

The Department is also proposing two rule **updates** to reduce regulatory requirements, as follows:

- 1) Sunset the requirements for testing and monitoring of mercury emissions that are being addressed by federal regulations; and
- 2) Remove several compounds from the definition of volatile organic compounds (VOC) to match recent federal amendments.

Summary of Proposed Rule Changes

Rescission of VOP program

The Department originally developed the VOP program in the mid-1990's to assist facilities that wanted to take voluntary limitations on emissions and operations to avoid

having to obtain a federal Title V operating permit. The Voluntary Operating Permit (VOP) Executive Order (EO) 80 stakeholder group recommended that the Department work individually with each of the VOP facilities to assist the affected facilities in utilizing other existing permitting options that meet the needs of the facility and the Department. The stakeholder group recommended to the Commission to rescind the rules with a target date of December 31, 2014.

All 18 facilities that had previously used the VOP program to establish limits to stay out of the Title V program have been transitioned over to other permitting options. This change reduced the regulatory burden for these facilities by eliminating the five-year renewal VOP requirement, thus saving the time to draft and submit the comprehensive VOP application. Since the VOP program is no longer in use, the VOP rules can be rescinded.

Rescission of conditional permits program

Conditional permits were added to the Iowa Code in the 1970's to facilitate electric utility rate setting. The Iowa Utilities Board changed the rate setting requirements so that conditional permits were not needed. The Department has no record of issuing a conditional permit to an electric utility. Senate File 2197 (85th General Assembly, signed by Governor Branstad on March 14, 2014) removed the statutory authority for conditional permits. The proposed rulemaking would rescind conditional permit references that are no longer supported by statutory authority.

Rescission of air toxics standards and new source performance standards

The Department proposes to rescind adoption by reference of several federal air toxics standards (also known as National Emission Standards for Hazardous Air Pollutants or "NESHAP") and federal new source performance standards (NSPS). The rescissions proposed affect industries such as mineral processing that do not currently operate in Iowa, and are unlikely to operate in Iowa in the future. *(Please see the attached table of NESHAP and NSPS proposed for rescission.)*

Sunsetting the mercury emissions testing and monitoring rules

The Commission adopted the mercury emissions testing monitoring rules in 2009 as temporary requirements until EPA finalized its mercury air toxics standards (MATS) for electric utility steam generating units (EGUs). EPA has now finalized MATS, which includes mercury emissions standards and monitoring requirements. The state mercury rules are duplicative of the MATS requirements. The Department recommends a sunset date for the mercury rules of April 16, 2015, which is the MATS compliance date for existing EGUs. If a facility receives an extension to comply with MATS, the Department proposes that the facility continue to comply with the mercury emissions testing and monitoring rules until the date the facility is required to comply with MATS.

Removing compounds from the list of volatile organic compounds (VOC)

EPA revised the definition of VOC to exclude several compounds because the compounds make a negligible contribution to tropospheric ozone formation. The Department is proposing to adopt EPA's revisions so that facilities no longer need to

count the excluded compounds towards potential VOC emissions in air permit applications and emissions inventory calculations and reporting.

Rescission of rules for air quality forms in Chapter 20

567 IAC 20.3 includes names and descriptions of the Department's air quality forms. The Department is proposing to eliminate this rule because some of the forms are no longer in use, and other forms are referenced elsewhere in the air quality rules.

Public Comments and Public Hearing

If the Commission approves the proposed rulemaking, the Department will hold a public hearing on Monday, January 26, 2015, at 1:00 p.m. at the Air Quality Bureau offices. The Department will accept written public comments until 4:30 p.m. on January 26, 2015.

A table of NESHAP and NSPS to be rescinded, as well as a jobs impact statement and a fiscal impact statement, are attached.

Christine Paulson
Environmental Specialist Senior
Program Development Section, Air Quality Bureau
Memo date: October 27, 2014

ENVIRONMENTAL PROTECTION COMMISSION [567]

Notice of Intended Action

Pursuant to the authority of Iowa Code section 455B.133, the Environmental Protection Commission (Commission) hereby gives Notice of Intended Action to amend Chapter 20, “Scope of Title—Definitions—Forms—Rules of Practice,” Chapter 22 “Controlling Pollution,” Chapter 23, “Emissions Standards for Contaminants,” Chapter 25, “Measurement of Emissions,” Chapter 31, “Nonattainment Areas,” and Chapter 33, “Special Regulations and Construction Permit Requirements for Major Stationary Sources—Prevention of Significant Deterioration (PSD) of Air Quality,” of 567 Iowa Administrative Code.

The purpose of the proposed rulemaking is to rescind unnecessary rules and to update other rules to reduce regulatory requirements. The proposed rules rescinding the Voluntary Operating Permit program fulfill the recommendations of an Executive Order 80 workgroup. The proposed rules will also implement a portion of the Department of Natural Resources' (Department's) 5-year rules review plan to accomplish the requirements of Iowa Code section 17A.7(2).

The Commission proposes to rescind rules for the following air quality programs:

- 1) References to air quality forms that no longer exist or are explained elsewhere in rule;
- 2) Conditional permits;
- 3) Voluntary Operating Permit program; and
- 4) Adoption by reference of several air toxics standards and new source performance standards that do not apply to any Iowa sources.

The Commission is also proposing to reduce regulatory requirements by:

- 1) Amending the definition of volatile organic compounds to remove several compounds;
and
- 2) Sunsetting the requirements for testing and monitoring mercury emissions that are being addressed by federal regulations.

Volatile Organic Compounds

Background

Between July 2, 2012, and March 27, 2014, the United States Environmental Protection Agency (EPA) published revisions to remove several compounds from the definition of volatile organic compounds (VOC). The excluded compounds are HFO-1234ze, HFE-134, HFE-236cal2, HFE-338pcc13, H-Galden 1040X (H-Galden ZT 130, 150 or 180), SolsticeTM 1233zd(E), HFO-1234yf, and 2-amino-2-methyl-1-propanol (AMP). EPA removed the compounds because the compounds make a negligible contribution to tropospheric ozone formation.

The Commission is proposing to adopt EPA's revisions so that state rules will match current federal regulations. The rule change will be a benefit to the regulated community because affected facilities will no longer need to count these compounds towards potential or actual VOC emissions for permitting or emission inventory purposes.

Proposed Amendment

Item 1 amends rule 567—20.2(455B) to revise the definition of “volatile organic compounds,” or “VOC” to adopt by reference the current federal definition of “VOC” and to remove several compounds from the list of VOCs (see also Item 23).

References to Air Quality Forms

Background

Rule 567—20.3(455B) (Air quality forms – generally) includes the names and descriptions of forms that are used by the public. The Department reviewed this rule and found that forms referenced in the rule are either no longer in use, or are referenced elsewhere in other air quality rules. The Department recommends rescinding this rule to eliminate unnecessary rules and to meet the requirements of Iowa Code section 17A.7(2). Removing outdated rules will also make rules more accessible and understandable to the public.

Proposed Amendment

Item 2 rescinds and reserves rule 567—20.3(455B) to eliminate obsolete and duplicative references to air quality forms.

Conditional Permits

Background

Conditional permits were added to the Iowa Code in the 1970's to facilitate electric utility rate setting. The Iowa Utilities Board changed the rate setting requirements so that conditional permits were not needed. The Department has no record of issuing a conditional permit to an electric utility. Senate File 2197 (85th General Assembly signed by Governor Branstad on March 14, 2014) removed the statutory authority for conditional permits. The Commission is proposing to remove rule provisions for conditional permits as part of the 5-year rules review required in Iowa Code section 17A.7(2). Removing outdated rules will clarify and streamline the Department's air quality program.

Proposed Amendments

The Commission proposes Items 3 through 11 to rescind all rule requirements and references for conditional permits (see also Items 22 and 23).

Item 3 amends subrule 22.1(1) to remove a reference to conditional permits.

Item 4 amends subrule 22.1(3) to remove references to conditional permits.

Item 5 rescinds and reserves subrule 22.1(4) to remove conditional permit requirements.

Item 6 amends subrule 22.2(2) to remove a reference to conditional permits.

Item 7 amends subrule 22.2(3) to remove a reference to conditional permits.

Item 8 amends the introductory paragraph of subrule 22.3(1) to remove references to conditional permits.

Item 9 rescinds and reserves paragraph 22.3(3) “d” to remove conditional permit requirements.

Item 10 amends paragraph 22.3(3)“g” to remove references to conditional permits.

Item 11 amends paragraph 22.3(4)“a” to remove references to conditional permits.

Voluntary Operating Permits

Background

The Department developed the Voluntary Operating Permit (VOP) program to assist facilities that wanted to take voluntary limitations on emissions and operations to avoid having to obtain a Title V operating permit. In the mid-1990’s, EPA required the Department to have a federally enforceable operating permit program to address existing facilities that wanted to establish limits below the Title V operating permit program thresholds. The Department’s Air Construction Permit program can also provide a mechanism to establish limits for facilities to

remain below the Title V operating permit program thresholds. The Department utilized the Lean “Value Stream Mapping” process to identify the VOP program as a program that could be eliminated to reduce the regulatory burden on industry and eliminate unnecessary regulations.

An Executive Order 80 (EO80) stakeholder group was formed to make recommendations on the VOP program. The EO80 stakeholder group recommended to the Commission on April 16, 2013, to rescind the VOP rules. The Department worked individually with each of the VOP facilities to transition these facilities to alternate permitting options. The Department completed the necessary permitting activities in late May 2014. Table 1 list all of the facilities moved out of the VOP program, and includes descriptions of the alternative mechanisms used, if any, to ensure that potential emissions at each facility remain below Title V program thresholds.

Table 1: Summary of VOP Transitions

Facility	New Permit Format (If Required)
Cargill, Buffalo	Facility has a Group 1 Grain Elevator permit.
Estherville Municipal Utility, Estherville	Construction permits issued.
Ferguson Elevator Corporation, Ferguson	No permit required. The facility is closed.
Flexible Industries Company, Burlington	No permit required. The facility is closed.
JBS USA LLC, Marshalltown	The facility transitioned to a Title V operating permit to allow for projected emissions increases.
Kinze Manufacturing Inc., Williamsburg	Construction permits issued.
Klinger Paint Company, Cedar Rapids	Construction permits issued.
LG Everist Inc., Hawarden	Construction permit issued.
Maaco Auto Repair, Council Bluffs	Facility has a permit-by-rule permit.
McGregor Municipal Utilities, McGregor	Construction permits issued.
MicroSoy Corporation/West Central Coop, Jefferson	Construction permits issued.
Paxton & Vierling Steel Company, Carter Lake	Construction permits issued.
Peoples Natural Gas, Council Bluffs	No permit required. The facility is closed.
Phillips Pipe Line Company/Noble Petro Inc., Council Bluffs	Construction permit issued.
Rock Rapids Municipal Utilities, Rock Rapids	Construction permit issued.
Spencer Municipal Utilities, Spencer	Construction permits issued.
Tama Packing Company, Tama	No permit required. The facility is closed. New equipment was permitted when the facility reopened and under a new facility name and number.
The Dial Corporation/Pinnacle Foods Group Inc., Fort Madison	Construction permits issued.

Proposed Amendments

The Commission proposes the amendments in Items 12 through 17 to remove the requirements and references for the VOP program.

Item 12 amends the definition “Designated representative” in rule 567—22.100 (455B) to remove the reference to the voluntary operating permit rules.

Item 13 rescinds and reserves rules 567—22.200 - 22.209 (455B) to remove voluntary operating permit requirements.

Item 14 amends rule 567—22.300 (455B) to remove the reference to voluntary operating permit rules.

Item 15 amends paragraph 22.300(2) “c” to remove references to voluntary operating permits.

Item 16 amends paragraph 22.300(8) “a” to remove references to voluntary operating permits.

Item 17 amends paragraph 22.300(9) “a” to remove references to voluntary operating permits.

New Source Performance Standards and Air Toxics Standards

Background

The U.S. Clean Air Act (CAA) obligates the EPA to issue standards to control air pollution. Two categories of standards, the New Source Performance Standards (NSPS) and air toxics standards (formally called National Emission Standards for Hazardous Air Pollutants or “NESHAP”) set standards and deadlines for industrial, commercial or institutional facilities to meet uniform standards for equipment operation and air pollutant emissions.

The CAA allows a state or local agency to implement NSPS and NESHAP as a “delegated authority.” Upon state adoption, the Department becomes the delegated authority for the specific NSPS or NESHAP, and is the primary implementation agency in Iowa. Two local air agencies, Polk County and Linn County, implement these standards within their counties. Iowa’s rules, including all compliance deadlines, are identical to the federal NSPS and NESHAP as of a

specific date.

The Department identified previously adopted NSPS and NESHAP that do not affect any facilities in Iowa, and are unlikely to affect any Iowa facilities in the future. Most of the federal standards apply to mineral and material processing.

The Department is recommending that adoption by reference of these NSPS and NESHAP be rescinded. The rescissions will accomplish the Department's goal of eliminating obsolete rules and meet the requirements in Iowa Code section 17A.7(2). If an affected facility should plan to locate to Iowa in the future, the Department will evaluate whether to request adoption of the standards at that time. Removing unnecessary rules will also make rules more accessible and understandable for regulated entities and the public.

Proposed Amendments

Item 18 rescinds paragraphs 23.1(2) "g," "h," "m," "n," "o," and "p" to remove the adoption by reference of NSPS under 40 Code of Federal Regulations (CFR) Part 60 for petroleum production, secondary lead smelters, primary copper smelters, primary zinc smelters, primary lead smelters, and primary aluminum reduction plants, respectively.

Item 19 rescinds paragraphs 23.1(3) "b," "c," "h," and "j" to remove the adoption by reference of NESHAP under 40 CFR Part 61 for beryllium, beryllium rocket motor firing, inorganic arsenic emissions from arsenic trioxide and metallic arsenic production facilities, and inorganic arsenic emissions from primary copper smelters, respectively.

Item 20 rescinds paragraphs 23.1(4) "j," "p," "x," "ac," "ai," "al," "bc," "bq," "bt," "dr," and "dt," to remove the adoption by reference of the NESHAP under 40 CFR 63 for polyvinyl chloride and copolymers production, primary aluminum production plants, secondary lead smelting, petroleum production, ship building and ship repair, steel pickling plants, primary

copper smelting, primary lead smelting, taconite iron ore processing, and primary magnesium refining, respectively.

Mercury Emissions Testing and Monitoring Rules

Background

The Commission adopted the mercury emissions testing and monitoring rules in 2009 as a temporary requirement until EPA finalized its mercury air toxics standards (also known as “MATS”) for electric utility steam generating units (EGUs). EPA has now finalized MATS, which includes mercury emissions standards and monitoring requirements. The state mercury rules are duplicative of the MATS requirements. The Commission proposes a sunset date for the mercury rules of April 16, 2015, which is the MATS compliance date for existing EGUs. If a facility receives an extension to comply with MATS, the Commission proposes that the facility continue to comply with the mercury monitoring rules until the date the facility is required to comply with MATS.

Proposed Amendment

Item 21 amends rule 567—25.3 (455B) to add a “sunset date” for the state’s mercury emissions testing and monitoring requirements.

Additional Amendments

Item 22 amends paragraph 31.20(1)“m” to remove the reference to conditional permits. The Commission is proposing to rescind all rule requirements and references to conditional permits, as described above for Items 3 through 11.

Item 23 amends the definition “enforceable permit condition” and “Volatile Organic Compounds” or “VOC” in subrule 33.3(1). The revision to the definition of “enforceable permit condition” removes the reference to conditional permits, and is the same as the amendment described above for Item 22. The change to the definition of “Volatile Organic Compounds” or “VOC” is the same as the revision explained above for Item 1.

Any person may make written suggestions or comments on the proposed rule changes on or before January 26, 2015. Please direct written comments to Christine Paulson, Department of Natural Resources, Air Quality Bureau, 7900 Hickman Road, Suite 1, Windsor Heights, Iowa, 50324, fax (515) 725-9501, or by E-mail to christine.paulson@dnr.iowa.gov.

A public hearing will be held on Monday, January 26, 2015, at 1:00 p.m. in the conference rooms at the Department’s Air Quality Bureau office located at 7900 Hickman Road, Windsor Heights, Iowa. All comments must be received no later than 4:30 p.m. on January 26, 2015.

Any person who intends to attend the public hearing and has special requirements such as those related to hearing or mobility impairments should contact Christine Paulson at (515) 725-9510, or by E-mail at christine.paulson@dnr.iowa.gov to advise of any specific needs.

Jobs Impact Statement

The following is a summary of the jobs impact statement. The complete jobs impact statement is available from the Department upon request.

After analysis and review, the Department has determined that the proposed amendments will have a positive impact on private sector jobs.

Removing compounds from the list of VOCs

Revising the definition of “VOC” in rule 567—20.2(455B) and in subrule 33.3(1) will

have a positive impact on facilities because the now-excluded compounds no longer need to be considered when preparing permit applications or emissions inventories.

Eliminating obsolete and redundant rule references to air quality forms

Rescinding rule 567—20.3(455B) will benefit the regulated community and the public by providing current and non-duplicative references to air quality forms.

Rescinding the rules for conditional permits

Rescinding the rule requirements and references for conditional permits will have no impact on jobs because the Department has no record of issuing a conditional permit to an electric utility. However, rescinding the obsolete rule requirements and references for conditional permits as described above should benefit the regulated community and the public by providing them with up-to-date air quality requirements.

Rescinding the VOP program rules

Businesses with a VOP permit are required to renew the application every five years. The VOP application includes all emissions at the facility and takes a considerable amount of time to complete. Rescinding the VOP program rule requirements and references as noted above will reduce the regulatory burden for businesses by eliminating the five-year renewal requirement, thus saving the time to draft and submit the comprehensive application.

Removing adoption by reference of NSPS and NESHAP

Iowa currently has no industries affected by the NSPS and NESHAP proposed for rescission in subrules 23.1(2), 23.1(3), and 23.1(4), and these requirements are unlikely to affect any Iowa facilities in the future. Rescinding these standards will streamline state air quality rules and will have a positive impact on regulated entities and the public.

Sunsetting the mercury testing and monitoring rules

Adding a sunset date to the mercury monitoring requirements in rule 567—25.3(455B) will have a positive impact on affected facilities by eliminating potentially duplicative and expensive testing and monitoring requirements.

These amendments are intended to implement Iowa Code section 455B.133.

The following amendments are proposed.

ITEM 1. Amend rule **567—20.2(455B)**, the definition of “volatile organic compounds” or “VOC,” as follows:

“Volatile organic compounds” or “VOC” means any compound included in the definition of “volatile organic compounds” found at 40 CFR Section 51.100(s) as amended through ~~January 21, 2009~~ March 27, 2014.

ITEM 2. Rescind and reserve rule **567—20.3(455B)**.

ITEM 3. Amend subrule 22.1(1), as follows:

22.1(1) Permit required. Unless exempted in subrule 22.1(2) or to meet the parameters established in paragraph “c” of this subrule, no person shall construct, install, reconstruct or alter any equipment, control equipment or anaerobic lagoon without first obtaining a construction permit, ~~or conditional permit~~, or permit pursuant to rule 567—22.8(455B), or permits required pursuant to rules 567—22.4(455B), 567—22.5(455B), 567—31.3(455B), and 567—33.3(455B) as required in this subrule. A permit shall be obtained prior to the initiation of construction, installation or alteration of any portion of the stationary source or anaerobic lagoon.

ITEM 4. Amend subrule 22.1(3), as follows:

22.1(3) *Construction permits.* The owner or operator of a new or modified stationary source shall apply for a construction permit ~~unless a conditional permit is required by Iowa Code chapter 455B or subrule 22.1(4) or requested by the applicant in lieu of a construction permit.~~ Two copies of a construction permit application for a new or modified stationary source shall be presented or mailed to Department of Natural Resources, Air Quality Bureau, 7900 Hickman Road, Suite 1, Windsor Heights, Iowa 50324. Alternatively, the owner or operator may apply for a construction permit for a new or modified stationary source through the electronic submittal format specified by the department. The owner or operator of any new or modified industrial anaerobic lagoon or a new or modified anaerobic lagoon for an animal feeding operation other than a small operation as defined in rule 567—65.1(455B) shall apply for a construction permit. Two copies of a construction permit application for an anaerobic lagoon shall be presented or mailed to Department of Natural Resources, Water Quality Bureau, Henry A. Wallace Building, 502 East Ninth Street, Des Moines, Iowa 50319.

ITEM 5. Rescind and reserve subrule **22.1(4)**.

ITEM 6. Amend subrule 22.2(2), as follows:

22.2(2) *Public notice and participation.* A notice of intent to issue a ~~conditional or~~ construction permit to a major stationary source shall be published by the department in a newspaper having general circulation in the area affected by the emissions of the proposed source. The notice and supporting documentation shall be made available for public inspection upon request from the department's central office. Publication of the notice shall be made at least

30 days prior to issuing a permit and shall include the department's evaluation of ambient air impacts. The public may submit written comments or request a public hearing. If the response indicates significant interest, a public hearing may be held after due notice.

ITEM 7. Amend subrule 22.2(3), as follows:

22.2(3) *Final notice.* The department shall notify the applicant in writing of the issuance or denial of a construction ~~or conditional~~ permit as soon as practicable and at least within 120 days of receipt of the completed application. This shall not apply to applicants for electric generating facilities subject to Iowa Code chapter 476A.

ITEM 8. Amend subrule 22.3(1), the introductory paragraph, as follows:

22.3(1) *Stationary sources other than anaerobic lagoons.* In no case shall a construction permit ~~or conditional permit~~ which results in an increase in emissions be issued to any facility which is in violation of any condition found in a permit involving PSD, NSPS, NESHAP or a provision of the Iowa state implementation plan. If the facility is in compliance with a schedule for correcting the violation and that schedule is contained in an order or permit condition, the department may consider issuance of a construction permit ~~or conditional permit~~. A construction ~~or conditional~~ permit shall be issued when the director concludes that the preceding requirement has been met and:

ITEM 9. Rescind and reserve paragraph 22.3(3)“d.”

ITEM 10. Amend paragraph 22.3(3)“g,” as follows:

g. The issuance of a permit ~~or conditional permit~~ (approval to construct) shall not relieve any owner or operator of the responsibility to comply fully with applicable provisions of the state implementation plan and any other requirement under local, state or federal law.

ITEM 11. Amend paragraph **22.3(4)“a,”** as follows:

a. When an application for a construction ~~or conditional~~ permit is denied, the applicant shall be notified in writing of the reasons therefor. A denial shall be without prejudice to the right of the applicant to file a further application after revisions are made to meet the objections specified as reasons for the denial.

ITEM 12. Amend the definition “designated representative” in rule **567—22.100 (455B)**, as follows:

“Designated representative” means a responsible natural person authorized by the owner(s) or operator(s) of an affected source and of all affected units at the source, as evidenced by a certificate of representation submitted in accordance with Subpart B of 40 CFR Part 72 as amended to October 24, 1997, to represent and legally bind each owner and operator, as a matter of federal law, in matters pertaining to the acid rain program. Whenever the term “responsible official” is used in ~~rules 567—22.100(455B) to 567—22.20822.148(455B)~~ 567—Chapter 22 (455B), it shall be deemed to refer to the designated representative with regard to all matters under the acid rain program.

ITEM 13. **Rescind** and reserve rules **567—22.200(455B)** through **567—22.209 (455B)**.

ITEM 14. Amend rule **567—22.300 (455B)**, as follows:

567—22.300(455B) Operating permit by rule for small sources. Except as provided in ~~567—subrules 22.201(2) and subrule 22.300(11)~~, any source which otherwise would be required to obtain a Title V operating permit may instead register for an operation permit by rule for small sources. Sources which comply with the requirements contained in this rule will be deemed to have an operating permit by rule for small sources. Sources which comply with this rule will be considered to have federally enforceable limits so that their potential emissions are less than the major source thresholds for regulated air pollutants and hazardous air pollutants as defined in rule 567—22.100(455B).

ITEM 15. Amend paragraph **22.300(2)“c,”** as follows:

c. Nothing in this rule shall prevent any stationary source which has had a Title V operating permit ~~or a voluntary operating permit~~ from qualifying to comply with this rule in the future in lieu of maintaining an application for a Title V operating permit ~~or a voluntary operating permit~~ or upon rescission of a Title V operating permit ~~or a voluntary operating permit~~ if the owner or operator demonstrates that the stationary source is in compliance with the emissions limitations in subrule 22.300(6).

ITEM 16. Amend paragraph **22.300(8)“a,”** as follows:

a. Duty to apply. Any person who owns or operates a source otherwise required to obtain a Title V operating permit and which would be eligible for an operating permit by rule for small sources must either register for an operating permit by rule for small sources, ~~apply for a voluntary operating permit,~~ or apply for a Title V operating permit. Any source determined not

to be eligible for an operating permit by rule for small sources, and operating without a valid Title V ~~or a valid voluntary~~ operating permit, shall be subject to enforcement action for operation without a Title V operating permit, except as provided for in the application shield provisions contained in rules 567—22.104(455B) ~~and 567—22.202(455B)~~. For each source registering for an operating permit by rule for small sources, the owner or operator or designated representative, where applicable, shall present or mail to the Air Quality Bureau, Iowa Department of Natural Resources, 7900 Hickman Road, Suite 1, Windsor Heights, Iowa 50324, one original and one copy of a timely and complete registration form in accordance with this rule.

ITEM 17. Amend paragraph **22.300(9)“a,”** as follows:

a. If the issuance of a construction permit acts to make the source no longer eligible for an operating permit by rule for small sources, the source shall, within 12 months of issuance of the construction permit, submit an application for ~~either a Title V operating permit or a voluntary operating permit.~~

ITEM 18. Rescind and reserve paragraphs **23.1(2) “g,” “h,” “m,” “n,” “o,” and “p.”**

ITEM 19. Rescind and reserve paragraphs **23.1(3) “b,” “c,” “h,” and “j.”**

ITEM 20. Rescind and reserve paragraphs **23.1(4) “j,” “p,” “x,” “ac,” “ai,” “al,” “bc,” “bq,” “bt,” “dr,” and “dt.”**

ITEM 21. Amend rule **567—25.3 (455B)**, introductory paragraph, as follows:

567—25.3 (455B) Mercury emissions testing and monitoring. Any stationary, coal-fired boiler or stationary, coal-fired combustion turbine serving, at any time since the later of November 15, 1990, or the start-up of the unit’s combustion chamber, a generator with a nameplate capacity of more than 25 megawatt electrical (MWe) producing electricity for sale is an affected source under the provisions of this rule.

The provisions of this rule expire on April 16, 2015, except for any affected facility that receives an extension to comply with the emission standards for hazardous air pollutants: coal- and oil-fired electric utility steam generating units (EGUs) (40 CFR Part 63, Subpart UUUUU, commonly known as “MATS”). Any facility receiving an extension from the MATS compliance date shall continue to comply with the provisions of this rule until the date the facility is required to comply with MATS or alternatively is no longer subject to the MATS compliance requirements. However, facilities complying with the requirements of this rule as specified in subrule 25.3(3) (continuous emissions monitoring systems (CEMS)) may submit a written request to the department to discontinue concurrent, annual stack tests. The department will evaluate and grant requests on a case-by-case basis, based upon previous stack test results and how recent the last stack test occurred or other extenuating circumstances, such as those that may cause testing conditions to be unrepresentative of normal operations or unsafe to perform. If the department grants a request, the facility will be required to continue operating CEMS and conduct relative accuracy test audits (RATAs), as specified in subrule 25.3(3), until the facility is required to comply with MATs or alternatively is no longer subject to MATS compliance requirements.

ITEM 22. Amend paragraph **31.20(1)**“m,” as follows:

m. “Enforceable permit condition” for the purpose of this rule means any of the following limitations and conditions: requirements developed pursuant to new source performance standards, prevention of significant deterioration standards, emission standards for hazardous air pollutants, requirements within the state implementation plan, and any permit requirements established pursuant to this rule, or under ~~conditional~~, construction or Title V operating permit rules.

ITEM 23. Amend subrule **33.3(1)**, the definitions of “enforceable permit condition” and “volatile organic compounds” or “VOC,” as follows:

“Enforceable permit condition,” for the purpose of this chapter, means any of the following limitations and conditions: requirements developed pursuant to new source performance standards, prevention of significant deterioration standards, emissions standards for hazardous air pollutants, requirements within the SIP, and any permit requirements established pursuant to this chapter, permit requirements established pursuant to 40 CFR 52.21 or Part 51, Subpart I, as amended through October 20, 2010, or under ~~conditional~~, construction or Title V operating permit rules.

“Volatile organic compounds” or *“VOC”* means any compound included in the definition of “volatile organic compounds” found at 40 CFR 51.100(s) as amended through ~~January 21, 2009~~ March 27, 2014.

Date

Chuck Gipp, Director

NESHAP and NSPS
Proposed for Rescission

Source(s) Affected	Iowa Rules (567 IAC Chapters 23 and 25)	CFR (Federal rule)
Primary Copper Smelters	23.1(2)"b" and 23.1(4)"bq"	40 CFR 60 Subpart P 40 CFR 63 Subpart QQQ
Primary Zinc Smelters	23.1(2)"n"	40 CFR 60 Subpart Q
Primary Lead Smelters	23.1(2)"o" and 23.1(4)"bt"	40 CFR 60 Subpart R 40 CFR 63 Subpart TTT
Primary Aluminum Reduction Plants	23.1(2)"p" and 23.1(4) "p" and "al"	40 CFR 60 Subpart S 40 CFR 63 Subpart LL
Beryllium	23.1(3)"b"	40 CFR 61 Subpart C
Beryllium Motor Rocket Firing	23.1(3)"c"	40 CFR 61 Subpart D
Inorganic arsenic emissions from arsenic trioxide and metallic arsenic production facilities	23.1(3)"h"	40 CFR 61 Subpart P
Inorganic arsenic emissions from primary copper smelters	23.1(3)"j"	40 CFR 61 Subpart O
Steel Pickling Plants	23.1(4)"bc"	40 CFR 63 Subpart CCC
Taconite Iron Ore Processing	23.1(4)"dr"	40 CFR 63 Subpart RRRRR
Primary Magnesium Refining	23.1(4)"dt"	40 CFR 63 Subpart TTTT
Secondary Lead Smelting	23.1(2)"h" 23.1(4)"x"	40 CFR 61 L 40 CFR 63 X
Petroleum Production (rescind current adoptions and not adopting new amendments)	23.1(2)"g" and 23.1(4) "ac"	40 CFR 60 J (rescind) and Ja (not adopting) and 40 CFR 63 CC (rescind)
Ship Building & Ship Repair	23.1(4)"ai"	40 CFR 63 II
Polyvinyl Chloride (PVC) and Copolymers (rescind current adoption and not adopting new amendments)	23.1(4)"j"	40 CFR 63 DDDDDD & HHHHHHH

Administrative Rules JOBS IMPACT STATEMENT

1. BACKGROUND INFORMATION

Agency:	Environmental Protection Commission (Commission) / Department of Natural Resources (Department)
IAC Citation:	567 IAC Chapters 20, 22, 23, 25, 31 and 33
Agency Contact:	Christine Paulson (515) 725-9510
Statutory Authority:	Iowa Code section 455B.133 and United States Clean Air Act (CAA) Title I (Sections 111 (42 USC §7411) and 112 (42 USC §7412))
Objective:	The purpose of the proposed air quality rulemaking is to rescind unnecessary rules and to update other rules to reduce regulatory requirements. The proposed rules rescinding the Voluntary Operating Permit Program fulfill the recommendations of an Executive Order 80 workgroup. The proposed rules rescinding conditional permits implements the requirements of Senate File 2197 (85th General Assembly, signed by Governor Branstad on March 14, 2014). The rulemaking will also implement a portion of the Department's 5-year rules review plan.
Summary:	<p>The Department proposes to rescind the following air quality rules:</p> <ol style="list-style-type: none"> 1) Voluntary Operating Permit (VOP) program; 2) Conditional permits; 3) Adoption by reference of several federal air toxic and new source performance standards that do not apply to any Iowa sources; and 4) References to air quality forms that no longer exist or are explained elsewhere in rule. <p>The Department is also proposing two rule updates to reduce regulatory requirements, as follows:</p> <ol style="list-style-type: none"> 1) Sunset the requirements for testing and monitoring of mercury emissions that are being addressed by federal regulations; and 2) Remove several compounds from the definition of volatile organic compounds (VOC) to match recent federal amendments. <p><u>Rescission of VOP program</u></p> <p>The Department originally developed the VOP program in the mid-1990's to assist facilities that wanted to take voluntary limitations on emissions and operations to avoid having to obtain a federal Title V operating permit. The Voluntary Operating Permit (VOP) Executive Order (EO) 80 stakeholder group recommended that the Department work individually with each of the VOP facilities to assist the affected facilities in utilizing other existing permitting options that meet the needs of the facility and the Department. The stakeholder group recommended to the Commission to rescind the rules with a target date of December 31, 2014.</p>

	<p>Eighteen facilities that had previously used the VOP program to establish limits to stay out of the Title V program have been transitioned over to other permitting options. This change reduced the regulatory burden for these facilities by eliminating the five-year renewal VOP requirement, thus saving the time to draft and submit the comprehensive VOP application. Since the VOP program is no longer in use, the VOP rules can be rescinded.</p> <p><u>Rescission of conditional permits program</u> Conditional permits were added to the Iowa Code in the 1970's to facilitate electric utility rate setting. The Iowa Utilities Board changed the rate setting requirements so that conditional permits were not needed. The Department has no record of issuing a conditional permit to an electric utility. Senate File 2197 (85th General Assembly, signed by Governor Branstad on March 14, 2014) removed the statutory authority for conditional permits. The proposed rulemaking would rescind conditional permit references that are no longer supported by statutory authority.</p> <p><u>Rescission of air toxics standards and new source performance standards</u> The Department proposes to rescind adoption by reference of several federal air toxics standards (also known as National Emission Standards for Hazardous Air Pollutants or "NESHAP") and federal new source performance standards (NSPS). The rescissions proposed affect industries such as mineral processing that do not currently operate in Iowa, and are unlikely to operate in Iowa in the future. If an affected facility should plan to locate to Iowa in the future, the Department will evaluate whether to request adoption of the standards at that time.</p> <p><u>Sunsetting the mercury emissions testing and monitoring rules</u> The Commission adopted the mercury emissions testing monitoring rules in 2009 as temporary requirements until EPA finalized its mercury air toxics standards (MATS) for electric utility steam generating units (EGUs). EPA has now finalized MATS, which includes mercury emissions standards and monitoring requirements. The state mercury rules are duplicative of the MATS requirements. The Department recommends a sunset date for the mercury rules of April 16, 2015, which is the MATS compliance date for existing EGUs. If a facility receives an extension to comply with MATS, the Department proposes that the facility continue to comply with the mercury emissions testing and monitoring rules until the date the facility is required to comply with MATS.</p> <p><u>Removing compounds from the list of volatile organic compounds (VOC)</u> EPA revised the definition of VOC to exclude several compounds because the compounds make a negligible contribution to tropospheric ozone formation. The Department is proposing to adopt EPA's revisions so that facilities no longer need to count the excluded compounds towards</p>
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	<p>potential VOC emissions in air permit applications and emissions inventory calculations and reporting.</p> <p><u>Rescission of rules for air quality forms in Chapter 20</u> 567 IAC 20.3 includes names and descriptions of the Department's air quality forms. The Department is proposing to eliminate this rule because some of the forms are no longer in use, and other forms are referenced elsewhere in the air quality rules.</p>
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2. JOB IMPACT ANALYSIS

<input type="checkbox"/> Fill in this box if impact meets these criteria:
<input type="checkbox"/> No Job Impact on private sector jobs and employment opportunities in the State.
<input type="checkbox"/> Job Impact cannot be determined.

<p><input checked="" type="checkbox"/> Fill in this box if impact meets either of these criteria:</p> <p><input checked="" type="checkbox"/> Positive Job Impact on private sector jobs and employment opportunities in the State.</p> <p><input type="checkbox"/> Negative Job Impact on private sector jobs and employment opportunities in the State.</p> <p><i>Description and quantification of the nature of the impact the proposed rule will have on private sector jobs and employment opportunities:</i></p> <p>The Department has determined that the proposed rules will have a positive impact on private sector jobs.</p> <p><u>Rescission of VOP program rules</u> Businesses with a VOP permit are required to renew the application every five years. The VOP application includes all emissions in the facility and takes a considerable amount of time to complete. The proposed rulemaking will reduce the regulatory burden for businesses by eliminating the five-year renewal requirement, thus saving the time to draft and submit the comprehensive application.</p> <p><u>Rescission of conditional permits</u> Rescinding the rules for conditional permits will have no impact on jobs because the Department has no record of issuing a conditional permit to an electric utility. However, rescinding these obsolete rules should benefit the regulated community and the public by providing them with up-to-date air quality requirements.</p> <p><u>Rescission of NESHAP and NSPS</u> Iowa currently has no industries affected by the 15 standards proposed for rescission and these requirements are unlikely to affect any Iowa facilities in the future. Rescinding these standards will streamline state air quality rules and will have a positive impact on regulated entities that use the Department's air quality rules.</p>

Sunsetting the mercury emissions testing and monitoring rules

Adding a sunset date to the mercury emissions testing and monitoring rules will have a positive impact on affected facilities by eliminating potentially duplicative and expensive testing and monitoring requirements.

Removing compounds from the list of VOCs

Adopting EPA's revisions to remove compounds from being considered VOCs will have a positive impact on facilities because the excluded compounds no longer need to be included in potential emissions in air permit applications and emissions inventory calculations and reporting.

Rescission of rule identifying air quality forms

Removing this rule will benefit the regulated community and the public by providing current and non-duplicative references to air quality forms.

Categories of jobs and employment opportunities that are affected by the proposed rule:

VOP permits were held by 18 different types of industry, ranging from auto body shops to municipal utilities. These facilities were able to utilize a variety of options, such as exemptions, construction permitting, and other applicable rules to transition out of the VOP program. No other jobs or employment opportunities would be affected by the proposed rule rescissions and updates.

Number of jobs or potential job opportunities:

Cannot be determined at this time.

Regions of the state affected:

All regions of the state.

Additional costs to the employer per employee due to the proposed rule: (if not possible to determine, write "Not Possible to Determine.")

No additional costs to the employer.

3. COST-BENEFIT ANALYSIS

The Agency has taken steps to minimize the adverse impact on jobs and the development of new employment opportunities before proposing a rule. See the following Cost-Benefit Analysis:

No other less intrusive or expensive method exists for achieving the purpose of the proposed rules.

Rescinding rules for the VOP program, as recommended by the VOP EO 80 stakeholder group, is the most cost efficient approach. Facilities have been able to utilize less intensive permitting programs, were able to use permit exemptions to transition out of the VOP program, or were no longer operating.

The conditional permits rules no longer have statutory authority (SF 2197) and are proposed to be removed as part of the 5-year rules review required in Iowa Code section 17A.7(2).

Removing or updating the rules will make rules more accessible and understandable to the public.

Administrative Rule Fiscal Impact Statement

Date: October 3, 2014

Agency: Environmental Protection Commission (Commission) / Department of Natural Resources (Department)

IAC Citation: 567 IAC Chapters 20, 22, 23, 25, 31 and 33

Agency Contact: Christine Paulson

Summary of the Rule:

The Department proposes to **rescind** the following air quality rules:

- 1) Voluntary Operating Permit (VOP) program;
- 2) Conditional permits;
- 3) Adoption by reference of several federal air toxic and new source performance standards that do not apply to any Iowa sources; and
- 4) References to air quality forms that no longer exist or are explained elsewhere in rule.

The Department is also proposing two rule **updates** to reduce regulatory requirements, as follows:

- 1) Sunset the requirements for testing and monitoring of mercury emissions that are being addressed by federal regulations; and
- 2) Remove several compounds from the definition of volatile organic compounds (VOC) to match recent federal amendments.

Fill in this box if the impact meets these criteria:

☒ No Fiscal Impact to the State.

☐ Fiscal Impact of less than \$100,000 annually or \$500,000 over 5 years.

☐ Fiscal Impact cannot be determined.

Brief Explanation:

The Department will use existing budget and resources to implement the rule.

Assumptions:

Describe how estimates were derived:

Estimated Impact to the State by Fiscal Year

	<u>Year 1 (FY 2015)</u>	<u>Year 2 (FY 2016)</u>
Revenue by Each Source:		
GENERAL FUND	0\$	0\$
FEDERAL FUNDS	0\$	0\$
Other (specify)	0\$	0\$

	0\$	0\$
TOTAL REVENUE		
Expenditures:		
GENERAL FUND	0\$	0\$
FEDERAL FUNDS	0\$	0\$
Other (specify)	0\$	0\$
	0\$	0\$
TOTAL EXPENDITURES		

NET IMPACT

 X This rule is required by State law or Federal mandate.
Please identify the state or federal law:

Revoking the VOP rules implements the recommendation of the Executive Order (EO) 80 workgroup. The statutory authority for conditional permits rules was revoked in Senate File 2197 (2014). All of the rule changes will fulfill Iowa Code section 17A.7(2) by removing obsolete rules and updating other rules to reduce regulatory requirements.

 Funding has been provided for the rule change.
Please identify the amount provided and the funding source:

 X Funding has not been provided for the rule.
Please explain how the agency will pay for the rule change:

The Department will utilize existing resources at this time.

Fiscal impact to persons affected by the rule):

Rescission of VOP program

The Department originally developed the VOP program in the mid-1990's to assist facilities that wanted to take voluntary limitations on emissions and operations to avoid having to obtain a federal Title V operating permit. The Voluntary Operating Permit (VOP) Executive Order 80 stakeholder group recommended that the Department work individually with each of the 18 VOP facilities to assist the affected facilities in utilizing other existing permitting options that meet the needs of the facility and the Department. Facilities that had previously used the VOP program to establish limits to stay out of the Title V program have now been transitioned over to other permitting options.

The proposed rule will reduce the regulatory burden for businesses by eliminating the five-year VOP renewal requirement, thus saving the time to draft and submit the comprehensive application.

Rescission of conditional permits

Conditional permits were added to the Iowa Code in the 1970's to facilitate electric utility rate setting. The Iowa Utilities Board changed the rate setting requirements so that conditional permits were not needed. Senate File 2197 (85th General Assembly, signed by Governor Branstad on March 14, 2014) removed the statutory authority for conditional permits. The proposed rulemaking would rescind conditional permit references that no longer are supported by statutory authority.

Rescinding the rules for conditional permits will have no fiscal impact because the Department has no record of issuing a conditional permit to an electric utility. However, rescinding these obsolete rules should benefit the regulated community and the public by providing them with up-to-date air quality requirements.

Rescission of air toxics standards and new source performance standards

The Department proposes to rescind adoption by reference of several federal air toxics standards (also known as National Emission Standards for Hazardous Air Pollutants or "NESHAP") and federal new source performance standards (NSPS).

Iowa currently has no industries affected by these NESHAP and NSPS standards, and it is unlikely that these requirements will affect any Iowa facilities in the future. Rescinding these standards will streamline state air quality rules and will have a positive impact on regulated entities that use the Department's air quality rules.

(continued on next page)

Fiscal impact to persons affected by the rule (continued):

Sunsetting the requirements for mercury emissions testing and monitoring

The Commission adopted the mercury emissions testing monitoring rules in 2009 as temporary requirements until EPA finalized its mercury air toxics standards (MATS) for electric utility steam generating units (EGUs). EPA has now finalized MATS, which includes mercury emissions standards and monitoring requirements. The state mercury rules are duplicative of the MATS requirements. Sunsetting these rules will have a positive fiscal impact on affected facilities by eliminating potentially duplicative and expensive testing and monitoring requirements.

Removing compounds from the list of VOCs

EPA revised the definition of VOC to exclude several compounds because the compounds make a negligible contribution to tropospheric ozone formation. Adopting the federal rule changes will have a positive impact on facilities because the excluded compounds no longer need to be included in potential emissions in air permit applications and emissions inventory calculations and reporting.

Rescission of rule identifying air quality forms

Chapter 20 includes names and descriptions of the Department's air quality forms. The Department is proposing to eliminate 567 IAC 20.3 because some of the forms included in the rule are no longer in use, and other forms in the rule are referenced elsewhere. Removing this rule will benefit the regulated community and the public by providing current and non-duplicative references to air quality forms.

Fiscal impact to Counties or other Local Governments (required by Iowa Code 25B.6):

Several municipalities had VOP permits for their municipal utilities. The Department worked with Estherville, McGregor, Rock Rapids and Spencer municipal utilities to transition their VOPs to construction permits.